

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE

CRAIG CUNNINGHAM, Pro-se

*Plaintiff*

v.

Vital Recovery ~~LLC~~ *Services, LLC*

*Defendants.*

CIVIL ACTION NO.: **3-15 0165**

**Plaintiff's Original complaint**

1. The Plaintiff in this case is Craig Cunningham, a natural person and was resident of Davidson County at all times relevant to the complaint, and currently has a mailing address of 5543 Edmondson Pike, ste 248, Nashville, TN 37211
2. Upon information and belief, Vital Recovery <sup>services</sup> LLC is a Georgia Corporation operating from 3795 Data Drive Suite 200, Peach Tree Corners, GA 30092 and has a registered agent office Corporation Service Company, 40 Technology Parkway South Ste 300. They are a debt collector ad defined by the FDCPA 15 USC 1692.

**Jurisdiction**

3. Jurisdiction of this court arises as the acts happened in this county.
4. Venue in this District is proper in that the defendants transact business here, and the acts and transactions occurred here.

**FACTUAL ALLEGATIONS**

5. In 2014 and 2015, the Plaintiff received at least 2 automated phone calls to the Plaintiff's phone which were not related to any emergency purpose and without the Plaintiff's consent. At least one of the calls contained an automated message as well that did not contain the name, address, or phone number of the calling entity. The calls were made from 866-312-5580 on 1/16 and 2/6 both in 2015, although there may have been more calls on other dates.
6. The Plaintiff went through his list of missed calls and identified that Vital recovery was the party making the calls and that they were a debt collector as defined by the FDCPA. The Plaintiff called Vital recovery and confirmed that they were calling a wrong number and did not have the Plaintiff's consent to call as it was a wrong number call.
7. The Plaintiff also confirmed with an agent of vital recovery that the calls were made with a pre-recorded message in addition to being automated.
8. These calls violated the Telephone Consumer protection act, 47 USC 227 (b) by their automated nature and entitle the Plaintiff to \$1500 per call in damages,
9. The pre-recorded calls violated the TCPA due to not containing the required information as required by 47 USC 227 (c) as codified by the FCC's 47 CFR 64.1200(d)(4)

. These are a separate category of violations entitling the Plaintiff to an additional \$1500 per call. In total, the Plaintiff is entitled to

recover \$3000 per call.

10. The agents calling on behalf of Vital Recovery also violated the FDCPA, 15 USC 1692(d), 15 USC 1692 (c) and 15 USC 1692(e) at a minimum by making multiple harassing phone calls, calls to a 3<sup>rd</sup> party, and by engaging in action they can't legally take. This entitles the Plaintiff to at least \$1,000 in statutory damages.

### **CAUSES OF ACTION:**

#### **COUNT I**

##### **Violations of the Telephone Consumer Protection Act (TCPA)**

11. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
12. The foregoing actions by the Defendants constitute multiple breaches of the TCPA by placing unsolicited and unwelcome telephone calls to the Plaintiff's cell phone. These phone calls also violated the TCPA by having an pre-recorded message that failed to contain the name, address, and phone number for the entity for which the calls are being place as required under the TCPA in violation of 47 USC 227(c)

#### **COUNT II**

##### **Violations of the Telephone Consumer Protection Act (TCPA)**

13. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.

14. The foregoing actions by the Defendants constitute multiple breaches of the TCPA by placing automated calls with pre-recorded messages to the Plaintiff's phone. These calls violated 47 USC 227(b)

### **COUNT III**

#### **Violations of the Fair Debt Collection Practices Act**

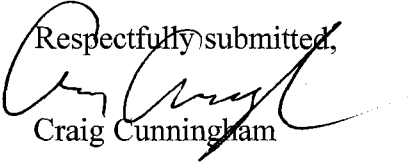
15. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
16. The foregoing actions by the Defendants constitute multiple breaches of the FDCPA by placing multiple harassing calls to the Plaintiff, contacting a 3<sup>rd</sup> party about a debt, and making false or misleading statements.

### **PRAYER FOR DAMAGES AND RELIEFS**

- A. WHEREFORE, Plaintiff, Cunningham, respectfully prays and requests that judgment be entered against Defendants
- B. Statutory damages of \$3000 for each phone call.
- C. Pre-judgment interest from the date of the phone calls.
- D. Statutory damages under the FDCPA in the amount of \$1,000
- E. Attorney's fees for bringing this action as incurred; and
- F. Costs of bringing this action; and
- G. For such other and further relief as the Court may deem just and proper

I, Craig Cunningham, Affiant, hereby attest to and certify that the facts contained in the foregoing complaint are true and correct to the best of my knowledge, information and belief and that a true and correct copy of the foregoing was sent to the defendants in this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Craig Cunningham', is written over the typed name.

Craig Cunningham

Plaintiff, Pro-se

Mailing address:

5543 Edmondson Pike, ste 248

Nashville, tn 37211

828-291-7465

February 16<sup>th</sup> 2015

5543 Edmondson Pike  
Ste 248  
Nashville, TN 37211

ATTN: Clerk  
US District Court  
801 Broadway  
Nashville, TN 37211

RECEIVED  
IN CLERK'S OFFICE  
FEB 23 2015  
U.S. DISTRICT COURT  
MID. DIST. TENN.

